

February 21, 2002

Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
12 Street Lobby - TW-A325  
Washington, DC 20554

Re: Amendment of Section 73.202(b)  
Table of Allotments  
Butler & Reynolds, Georgia  
DA 02-04  
MM Docket No. 01-05; RM-10028, RM-10107

01-51

Dear Secretary:

Transmitted herewith on my behalf is an original and four copies of my Petition for Reconsideration of Report & Order No. DA 02-204 released January, 25, 2002.

Should any questions arise concerning this matter, please contact me directly.

Sincerely,

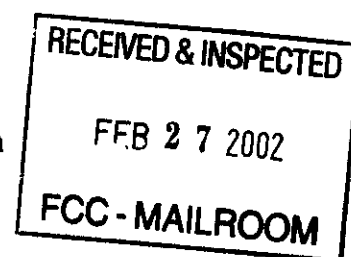
A handwritten signature in cursive script, appearing to read "H. David Hedrick".

H. David Hedrick  
P O Box 27  
Gray, Georgia 31032  
(478-986-4435)

Enclosures

No. of Copies rec'd 044  
123456789

**Before the  
Federal Communications Commission  
Washington, DC 20554**



In the Matter of	)	
	)	
Amendment of section 73.202 ( b)	)	MM Docket No. 01-5
Table of Allotments	)	RM-10028
FM Broadcast Stations	)	RM-10107
(Butler and Reynolds, Georgia)	)	

To: Chief, Allocations Branch

**PETITION FOR RECONSIDERATION**

H. David Hedrick (Petitioner), hereby seeks reconsideration of the Report & Order DA 02-204, (rel. January 25, 2002), allocating Channel 245A to Reynolds, GA and the designation of same as a non-commercial educational (NCE) channel.

**BACKGROUND**

Responding to a request from this petitioner, the Commission initiated an NPRM (RM-10028, MM Docket No. 01-05) on January 12, 2001 proposing to allot Channel 245A as a first aural service to Butler, GA. During the comment period Fort Valley State University (FVSU) filed a counterproposal seeking exclusive preferential allotment of Channel 245A to Reynolds GA as a non-commercial educational (NCE) facility. Due to an unforeseen six day postal delay (See Exhibit A), my comments in this proceeding were deemed unacceptable for filing. Due to procedural issues, the comments of BK Radio were also found to be unacceptable.

**ARGUMENT**

The Commission Report & Order must be reconsidered as contrary to it's own Rules

and Policies: Section 1.429(b)(1) of the Rules “Permits the consideration of facts which have not previously been presented to the Commission if they relate to events which have occurred , or circumstances which have changed since the last opportunity to present them to the Commission.” (47CFR, Sec. 1.429 (b)(1)). Moreover “ New facts may be relied upon by the Commission where such reliance is mandated by the public interest.” (47CFR Sec. 1.429 (b)(3)).

There are several new facts which have not been considered that necessitate the reconsideration of, and the subsequent setting aside of Report & Order DA 02-04:

(1) In issuing the original NPRM (See Exhibit B), the Commission found that “We believe petitioner’s proposal warrants consideration because the allotment of Channel 245A could provide the community with it’s first aural service.” Since the NPRM was issued, the 2000 census figures are in. Butler, the Taylor County seat increased 14%, to 1,907. Reynolds declined 11% to 1,036. Butler is a thriving community & business center. Reynolds, however has no schools, no police force, no community services. In reality, since my original petition was filed, & despite FVSU’s claim of a “ slight population difference that is insignificant” the Census demonstrates Butler’s superior criteria for allocation. Since a counterproposal for a different community was chosen over an initial NPRM, in essence a defacto community comparison was made.

(2) On February 14, 2002, in it’s open meeting, the Commission issued an NPRM (MM Docket 95-31) (See Exhibit C) seeking public comments concerning the licensing of non-reserved spectrum in which both commercial & non commercial educational

(NCE) broadcast stations have an interest. Accordingly, until such time as an R & O in 95-31 is issued, Docket DA 02-204 should be set aside.

(3) FVSU states that their Reynolds proposal would provide "A second NCE service to 2000 or more people in it's 60dBu contour. In *Sparta & Buckhead*, GA, DA 00-2481, (rel. November 11, 2000), 65CFR 69725 (November 10, 2000) & *St. Marks & Woodville*, FL 12 FCC Rcd 11957 (1997) the Commission states "The determining factor in comparing competing proposals for a first local aural service is the size of the community of license, not potential population within the projected 60dBu contour". As I have shown Butler is the community that best meets allocation criteria. And , since the original petition was filed in 2001, Butler has shown a net population change of 35% over Reynolds.

(4) FVSU states in their technical exhibit that "No over the air broadcasting is available to students other than the carrier current AM system that can be heard in selected buildings on campus..." Enclosed as Exhibit D is a copy of a front page newspaper article from the February 7, 2002, Macon, GA Telegraph, describing FVSU's "Open House, to show off the new campus radio station WFVS-FM 100.5 that listeners will be able to pick up on & off campus..." The article details FVSU's AM, FM & TV operations. This petitioner believes that FVSU, it's attorney, & consulting engineer have deliberately omitted facts such as these all along in order to obfuscate this proceeding.

(5) In *Stuart and Boone*, IA, 5 FCC Rcd 4537 (1990), Recon. Pen. 6 FCC Rcd 6036 (1991). The Commission states "Where a proposed allotment would be subject to competing applications, it is the Commission's policy to allot the channel with the least site restriction necessary." There is no site restriction necessary if allocating 245A to

Butler, but, allocation to Reynolds requires a site restriction of 4.4 km SW. (See Exhibit E).

**SUMMATION**

Wherefore, in light of the facts set forth herein, it is respectfully requested that this Petition for Reconsideration be granted, and the Commission's allotment of Channel 245A to Reynolds, GA, & it's designation as non-commercial educational (NCE) be set aside.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. David Hedrick".

H. David Hedrick  
PO Box 27  
317 Stonegables Ct.  
Gray, GA 31032  
478-986-4435

Exhibits A - E

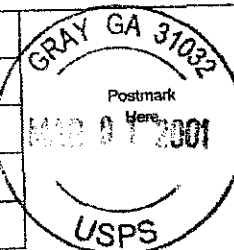
## Exhibit A

# U.S. Postal Service CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

7000 1670 0003 6711 0748

Postage	\$ 1.39
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.79



Sent To: **MAGALIE SALAS - SEC / FCC**  
 Street, Apt. No., or PO Box No.: **445 12th St SW - 12th St Lobby TWA325**  
 City, State, ZIP+4: **WASHINGTON DC 20554**

PS Form 3800, May 2000

See Reverse for Instructions

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**MAGALIE SALAS FCC**  
**445 12th St SW**  
**12th St. Lobby - TWA325**  
**WASH. DC 20554**

2. Article Number (Copy from service label)

**7000 1670 0003 6711 0748**

## COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

**RECEIVED**

☐ Agent

☐ Addressee

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

**MAR 7 2001**

**FCC MAIL ROOM**

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

## Exhibit B



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Butler, Georgia) )

MM Docket No. 01-5  
RM-10028

**NOTICE OF PROPOSED RULE MAKING**

Adopted: January 3, 2001

Released: January 12, 2001

Comment Date: March 5, 2001

Reply Comment Date: March 20, 2001

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by H. David Hedrick ("petitioner") requesting the allotment of Channel 245A to Butler, Georgia, as the community's first local aural service.<sup>1</sup> Petitioner states that he will apply for the channel, if allotted.

2. We believe petitioner's proposal warrants consideration since the allotment of Channel 245A at Butler could provide the community with its first local aural service.<sup>2</sup> Channel 245A can be allotted to Butler in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.<sup>3</sup>

<sup>1</sup> Section 1.52 of the Commission's Rules requires that all pleadings filed by parties not represented by legal counsel be signed and verified by the petitioner and provide the petitioner's mailing address. In this case, petitioner signed the petition and provided his address. However, he did not submit a statement attesting that the information included in his petition is correct and true to the best of his knowledge. Therefore, petitioner is requested to submit a subscription and verification statement in his responsive comments to this Notice.

<sup>2</sup> Petitioner states that Butler, an incorporated community with a 1990 U.S. Census population of 1,673 persons, is the seat of Taylor County, with its own post office, zip code, schools, businesses, churches, civic and social clubs and weekly newspaper.

<sup>3</sup> The coordinates for Channel 245A at Butler are 32-33-25 North Latitude and 84-14-18 West Longitude. We recognize that petitioner proposed a transmitter site 14.6 kilometers (9.1 miles) northeast of Butler. However, where, as here, a proposed allotment would be subject to competing applications, it is the Commission's policy to allot the channel with the least site restriction necessary. See, Stuart and Boone, Iowa, 5 FCC Rcd 4537 (1990), recon. den., 6 FCC Rcd 6836 (1991).

## Exhibit C

News Release: Text | Acrobat



Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

News media information 202 / 418-0500  
TTY: 1-888-835-5322  
Internet: <http://www.fcc.gov>  
<ftp.fcc.gov>

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

FOR IMMEDIATE RELEASE  
February 14, 2002

NEWS MEDIA CONTACT:  
Audrey Spivack 202-418-0512

**FCC SEEKS COMMENT ON PROCEDURES TO ALLOCATE AND LICENSE  
NON-RESERVED SPECTRUM IN WHICH APPLICANTS FOR  
NONCOMMERCIAL EDUCATIONAL BROADCAST STATION LICENSES  
HAVE AN INTEREST**

Washington, DC – In a Second Further Notice of Proposed Rulemaking (2nd FNPRM) adopted today, the FCC asked for comment on new procedures to license non-reserved spectrum in which applicants for both commercial and noncommercial educational (NCE) broadcast stations have an interest.

The FCC in April 2000 adopted an Order to require all entities, including those that are eligible to hold licenses for NCE broadcast stations, to compete at auction for licenses for non-reserved spectrum, i.e., spectrum that the FCC has not reserved for use by NCE stations only. However, in July 2001 the U.S. Court of Appeals for the D.C. Circuit held that the Communications Act did not permit the FCC to use auctions to award licenses for NCE stations in the non-reserved spectrum.

In today's 2nd FNPRM, the FCC asked for comments on three options it proposed to resolve competing interests of commercial and NCE entities for non-reserved channels and frequencies.

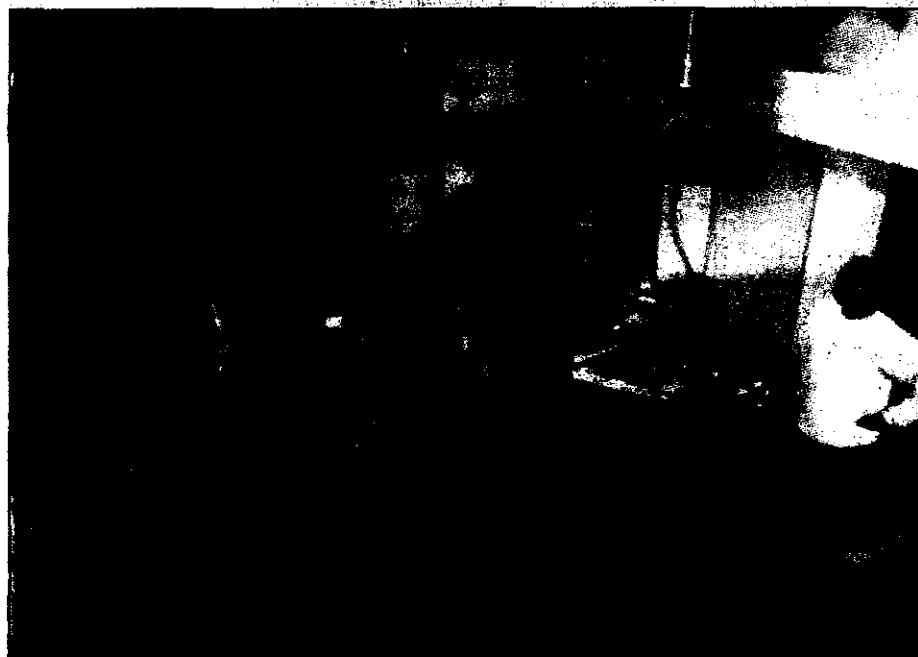
- 1) Hold NCE entities ineligible for licenses for non-reserved channels. NCEs would be limited to FM and TV channels specifically set aside for them either in the reserved band or through the allocations process.
- 2) Permit NCE entities opportunities to acquire licenses for non-reserved channels when no commercial entities apply for them; and
- 3) Provide NCE entities opportunities to reserve additional FM and TV channels.

The FCC could adopt one of these options, or could adopt several of them to work in tandem with one another. Comments are invited on these options, as well as the submission of any others that would be consistent with the court's decision.

## Exhibit D

# FVSU to show off revamped TV, radio studios

By Shanay Cadette  
Telegraph Staff Writer



Carpenter Bobby Manning installs lighting Tuesday in the new television studio at Fort Valley State University.

Dahry Gileland/The Telegraph

FORT VALLEY — Shirley Ellis was tired of seeing the old-fashioned green, black and blue curtain and makeshift desk in Fort Valley State University's television studio.

That basic setup worked 10 years ago, but in terms of TV studios, Fort Valley State was stuck in the dark ages.

"It was driving me insane," said Ellis, the television and radio station manager for the mass communications department.

About a year ago, Ellis began her search for someone to revamp the studio, and eventually found Bobby Manning, a master carpenter who works as a subcontractor and builds television studios.

"Bobby was really reasonable," Ellis said. "The first man I found, he wanted \$40,000."

For about \$14,000, Manning built desks, painted six colorful backgrounds and changed the lighting — basically transforming the entire studio. The department's new digs will be shown off from 2 to 5 p.m. today at an open house ceremony. The department also plans to

Please see FVSU, 6B

## FVSU

Continued from 1B

introduce its new campus radio station, WFVS-FM 100.5, that listeners will be able to pick up across the campus and in areas close to the university. Students who run the station and studio will be introduced to the public during the open house, and a mock talk show will give students a chance to show their skills.

Ellis said the new station and remodeled studio will create a more professional atmosphere and give the more than 100 mass communications majors a competitive edge.

It "motivates students when (they are) in a professional atmosphere," Ellis said. "That's why I tell them all the time, 'It's so competitive, you've got to be (the) best.'"

Modeled after studios shown on Black Entertainment Television, the revamped WFVS-TV 21 studio has several backgrounds in colors such as peach, fuchsia, blue and green. The change will give students the

flexibility to broadcast shows that look different from each other. Manning began work on the studio in late November.

"(Ellis) wanted something these students could take pride in," Manning said. "There's no difference in these sets than any other (television studio)."

Both the television studio and radio station are student-run and feature programming presented and produced by students. Along with new equipment the department recently purchased, the addition of the FM radio station and remodeled studio prepares students for future careers as producers, disc jockeys, directors, camera people and anchors.

"It's encouraging. It's like a shot in the arm," said senior Maurice Garland about the changes. Garland, a 21-year-old Decatur resident, is a

co-host of "Trendsetters," an entertainment show broadcast on the campus TV station and is the radio station's program director.

"It's encouraging to know you're going to be working with top-notch equipment," Garland said. "Whenever you graduate from college, you'll already know what you're walking into."

The FM radio station, which also will be formatted to play jazz, gospel, hip-hop and R&B like the current WFVS-AM 530, is a radiating cable station, Ellis said. It was designed by a Pennsylvania-based company called Low Power Broadcast Communications Inc. Unlike the AM radio station, the FM station can be heard in all of the buildings on campus and just off campus.

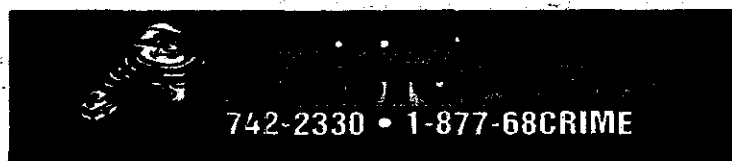
— To contact Shanay Cadette, call 923-6199, ext. 305, or e-mail [scadette@macontel.com](mailto:scadette@macontel.com).

The Telegraph

Thursday  
February 7, 2002

B

SECTION



742-2330 • 1-877-68CRIME

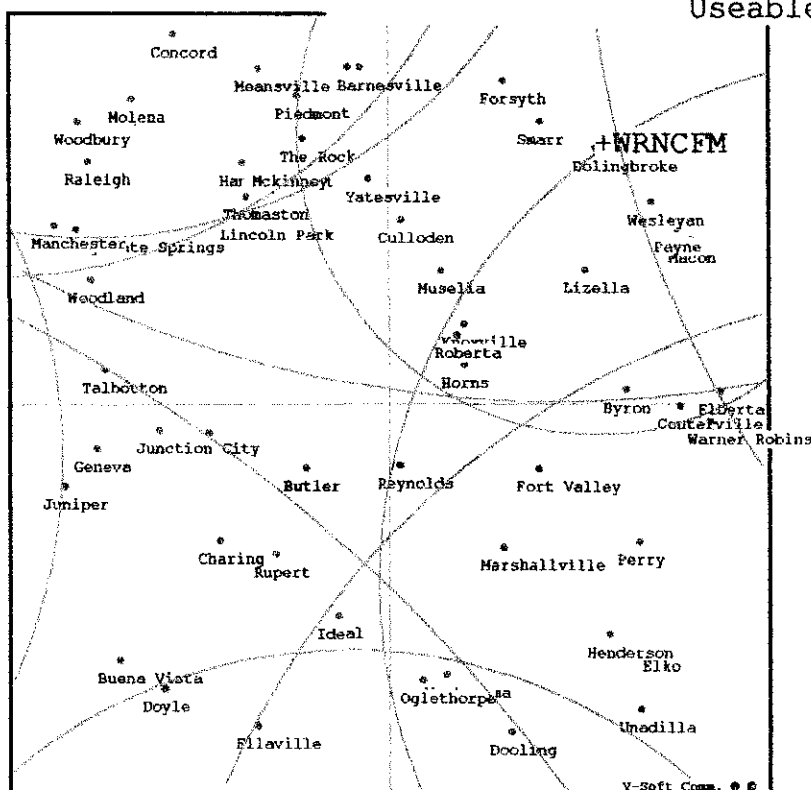
## Exhibit E

96.9-A  
Useable Area

FMCONT<sup>(TM)</sup> LOCATE STUDY

Ch 245 A  
96.9 MHz

N. Lat. 32 38 05  
W. Lng. 84 06 44



Call	CH#	Location		D-KM	Azi	FCC	Margin
WFOX	246C	Gainesville	GA	167.01	8.0	165.0	2.01
WVMGFM	244A	Cochran	GA	74.73	109.2	72.0	2.73
WVMGFM	244A	Cochran	GA	74.73	109.2	72.0	2.73
WRNCFM	243C3	Gray	GA	47.77	37.6	42.0	5.77
WRNCFM	243C3	Gray	GA	47.77	37.6	42.0	5.77
WRDO	245A	Fitzgerald	GA	128.39	140.3	115.0	13.39
WDJR	245C	Enterprise	AL	244.92	219.4	226.0	18.92
WMKJ.C	244A	Peachtree City	GA	103.92	336.0	72.0	31.92
WMKJ	244A	Peachtree City	GA	105.35	328.2	72.0	33.35
WJIZFM	242C1	Albany	GA	108.88	183.2	75.0	33.88
WAKB	245C3	Wrens	GA	184.29	67.3	142.0	42.29
WMXA	244A	Opelika	AL	118.35	266.6	72.0	46.35

## CERTIFICATION

State of Georgia    )  
City of Gray        )  
Jones County        )

H. David Hedrick, under penalty of perjury, declares and says:

That he is a radio broadcast consultant, active in the industry for four decades;  
having obtained a First Class (currently General) FCC license in 1961. Since  
Docket 80-90 he has had numerous petitions for FM rulemakings accepted  
by the Commission.

That he personally prepared the petition and exhibits for the Petition for Reconsideration,  
submitted February 21, 2002 (R&O DA 02-204, MM Docket 01-05, RM-10028, RM-  
10107).

All material and exhibits thereto, are believed to be true and correct,  
as of the date of this writing.



---

H. David Hedrick  
P O Box 27  
Gray, Georgia 31032  
478-986-4435

DATED: February 21, 2002



## **CERTIFICATE OF SERVICE**

I, H. David Hedrick, hereby certify that on February 21, 2002 the foregoing document is being served by First Class Mail, postage prepaid, to the following:

Gary S. Smithwick  
Smithwick & Belendiuk, P.C.  
5028 Wisconsin Avenue, N.W.  
Suite 301  
Washington, D.C. 20016  
Attorney for Fort Valley State Univ.

---

H. David Hedrick

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.
- o Microfilm, microform, certain photographs or videotape.
- Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician at the FCC Reference Information Center, at 445 12<sup>th</sup> Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

*The two original pages out of the newspaper from which exhibit D has been copied.*